

Receipt Number

540922

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GEOFFREY NELS FIEGER &
RICHARD L. STEINBERG,

Plaintiffs,

vs.

Case: 2:06-cv-11684
Assigned To: Tarnow, Arthur J
Referral Judge: Majzoub, Mona K
Filed: 04-07-2006 At 01:37 PM
CMP FIEGER, ET AL V. MI SUPREME COU
RT, ET AL (TAM)

MICHIGAN SUPREME COURT,
CLIFFORD W. TAYLOR,
MICHAEL F. CAVANAGH,
ELIZABETH A. WEAVER,
MARILYN KELLY,
MAURA D. CORRIGAN,
ROBERT P. YOUNG, JR.,
STEPHEN J. MARKMAN,
In their official capacities,

MAGISTRATE JUDGE

Defendants.

/
MICHAEL R. DEZSI (P64530)
Counsel for Plaintiffs
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.,
19390 W. Ten Mile Rd.
Southfield, MI 48075
(248) 355-5555

COMPLAINT

NOW COMES Plaintiffs, Geoffrey N. Fieger and Richard L. Steinberg, by and through counsel, and brings this Complaint against the above named Defendants. In support of their Complaint, Plaintiffs state the following:

1. Plaintiffs Geoffrey N. Fieger and Richard L. Steinberg, are, and at all relevant times were, duly licensed attorneys admitted to practice law before the Michigan courts.
2. Defendant Michigan Supreme Court, comprised of each of the above named justices in their official capacities, is the government agency responsible for the promulgation,

approval, and implementation of the Michigan Rules of Professional Conduct which rules govern attorney conduct.

3. Jurisdiction is conferred upon this Honorable Court by 28 U.S.C. § 1331, this being a civil action arising under the Constitution and the laws of the United States.

4. Jurisdiction is also conferred upon this Court by 28 U.S.C. § 1343(a)(3) and (4), 28 U.S.C. § 2201 & 2202, and 42 U.S.C. § 1983 & 1988, this being an action for declaratory judgment and equitable relief authorized by law to redress deprivations under color of law of rights, privileges, and immunities secured by the United States Constitution.

5. At all times relevant to this Complaint, and in taking all of the actions described in this Complaint, Defendants have acted and threatened to act under color of law and were effecting, and will effect, the custom, policies, rules, and laws of the State of Michigan.

FACTS GIVING RISE TO PLAINTIFF'S CONSTITUTIONAL CLAIMS

6. Plaintiffs, and all other attorneys duly licensed to practice law in the State of Michigan, are subject to Michigan's Rules of Professional Conduct ("MRPC").

7. Failure to comply with an obligation or prohibition imposed by the MRPC subjects Plaintiff and all other licensed attorneys to the disciplinary proceedings of the Michigan Supreme Court.

8. Rule 3.5(c) of the MRPC provides that "A lawyer shall not engage in undignified or discourteous conduct toward the tribunal."

9. Rule 6.5 of the MRPC provides that "A lawyer shall treat with courtesy and respect all persons involved in the legal process."

10. As a direct result of MRPC 3.5 and 6.5, Plaintiff, and all other duly licensed attorneys, face the constant threat of disciplinary proceedings, up to and including revocation of licensure, for engaging in truthful, nonmisleading, constitutionally protected expression.

COUNT I

11. Plaintiffs incorporates paragraphs 1-10 of their Complaint herein.

12. Michigan Rules of Professional Conduct 3.5(c) and 6.5 are unconstitutional on their face and violate the First and Fourteenth Amendments for the following reasons:

- (a) Rules 3.5(c) and 6.5 unconstitutionally abridge freedom of speech and expression;
- (b) Rules 3.5(c) and 6.5 do not further a compelling government interest;
- (c) Rules 3.5(c) and 6.5 are not the least restrictive means to further any governmental interest, compelling or otherwise;
- (d) Rules 3.5(c) and 6.5 are unconstitutionally vague and overly broad.

13. For these reasons, Plaintiffs, and all other duly licensed attorneys, are threatened with irreparable harm for which there is no adequate remedy at law.

RELIEF REQUESTED

THEREFORE, Plaintiffs are entitled to:

- (a) a declaration that MRPC 3.5(c) and 6.5 are unconstitutional on their face;
- (b) a temporary restraining order, a preliminary injunction and, after final hearing, a permanent injunction precluding the Michigan Supreme Court, or any of its agencies, from enforcing MRPC 3.5(c) and 6.5;
- (c) any other relief as authorized under the laws including costs and attorney fees for bringing this action.

Respectfully submitted,

FIEGER, FIEGER, KENNEY & JOHNSON, P.C.

By: 

MICHAEL R. DEZSI (P64530)

Attorney for Plaintiffs
19390 W. Ten Mile Road
Southfield, Michigan 48075
(248) 355-5555

Dated: April 7, 2006

JS 44 11/99

CIVIL COVER SHEETCOUNTY IN WHICH THIS ACTION AROSE: Oakland/Wayne

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS Geoffrey Fieger
Richard Steinberg

(b) County of Residence of First Listed: Oakland

DEFENDANTS Michigan Supreme Court
Taylor, Cavanaugh, Utawer, Kelly, Corrigan,
Young, Markman

County of Residence of First Listed: Township

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorneys (Name, Address and Telephone Number)

Michael DZSI
19390 W. Ten Mile
Southfield, MI 48075
248-385-5555

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☒ 1 Incorporated or Principal of Business in This State ☐ 4 ☐ DEF
- Citizen of Another ☐ 2 ☐ 2 Incorporated and Principal of Business in Another State ☐ 5 ☐ DEF
- Citizen or Subject of Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/P	
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 610 Agricult	Case: 2:06-cv-11684 Assigned To: Tarnow, Arthur J Referral Judge: Majzoub, Mona K Filed: 04-07-2006 At 01:37 PM CMP FIEGER, ET AL V. MI SUPREME COU RT, ET AL (TAM)	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 385 Personal Injury—Product Liability	<input type="checkbox"/> 620 Other F		
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel And Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Reli of Proper		
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor I		
<input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 R.R. & Truon	Corrupt Organizations <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 950 Other Statutory Actions	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs.		
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health		
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 690 Other		
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		LABOR		SOCIAL SECURITY
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 710 Fair Labor Standards Act		<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 720 Labor/Mgmt. Relations		<input type="checkbox"/> 862 Black Lung (923)
			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act		<input type="checkbox"/> 863 DIWC/DIWW (405(g))
			<input type="checkbox"/> 740 Railway Labor Act		<input type="checkbox"/> 864 SSID Title XVI
			<input type="checkbox"/> 790 Other Labor Litigation		<input type="checkbox"/> 865 RSI (405(g))
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		FEDERAL TAX SUITS
					<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
					<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 U.S.C. § 1983, challenging as facially unconstitutional Mich. Rules of Prof. Conduct

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

\$ DEMAND

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4-7-06

SIGNATURE OF ATTORNEY OF RECORD

X

Michael DZSI

over ->

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☒ Yes☐ No

If yes, give the following information:

Court: E.D. Mich Mich Sup CourtCase No.: 05-72264 / 94-74375 / 127547Judge: BATTANT / BORMAN Mich Supr Crt

Notes: NONE OF these cases were original actions under § 1983 challenging as
facially unconstitutional the Mich Rules of Prof. Conduct, however
they involved Plaintiff Fieger and the Mich. R. of Prof. Conduct.